IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3130 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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RAMTAJI KANAJI VAGHELA

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 3130 of 1987

MR PJ VYAS for Petitioner No. 1

MR SP SEN, AGP for Respondent No. 1-2

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 05/04/2002

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioner challenges the orders dated 16.9.1985 (Annexure "A") passed by the Mamlatdar, Deesa as confirmed by the Secretary (Appeals) in the Revenue Department of the State Government by his order dated 30.12.1986 (Annexure "B") passed under the Bombay Land

Revenue Code.

2. In the year 1984-85, the Mamlatdar had given Acres 2-12 Gunthas of the river bed land in village Vadaval in Deesa taluka for cultivation of potatoes to three harijans on lease. During personal inspection, it was found that the land in question was being cultivated by the present petitioner without any permission of the authorities. On the ground that the land was given to three harijans for cultivation for one year, but the land was not being cultivated by them, the Mamlatdar passed the impugned order for taking back the land and levying land revenue and fine aggregating to a total amount of Rs.9,013/-. That order was challenged by the petitioner himself before the State Government in revision. The revision came to be dismissed by the aforesaid order at Annexure "B".

3. In the present petition under Article 226 of the Constitution, the concurrent findings given by the Mamlatdar and the Secretary (Appeals) cannot be interfered with. It is pertinent to note that the appeal before the Secretary (Appeals) and this petition were filed by the petitioner and not by the three harijans in whose favour the land was granted on lease for one year.

4. There is no merit in this petition. The petition is, therefore, dismissed.

While admitting the petition, this Court had required the petitioner to deposit Rs.1,000/- before the Mamlatdar. That order was complied with as recorded in the order dated 11.8.1987. That amount shall, therefore, be appropriated by the Mamlatdar towards the recovery in question and the balance amount may be recovered in accordance with law.

Rule is discharged. Ad-interim relief granted earlier stands vacated.

(M.S. Shah, J.)

sundar/-